**Northern Ireland (Ministers, Elections and Petitions of Concern) Bill 2nd reading Lords**

**29 November 2021**

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**21:09:00**

**Baroness Hoey (Non-Afl)**

My Lords, it is a genuine pleasure to follow the noble Lord, Lord Bew. I was getting rather ahead of myself. His knowledge of Northern Ireland is probably greater than anyone else’s in your Lordships’ House, so I apologise to him.

I welcome the noble Lord, Lord Caine. When I first came into the Lords last year, I was so surprised that there was no Minister for Northern Ireland. I absolutely welcome him and his remark at the beginning that he is a unionist and a pro-union Minister, and therefore, if there ever is a referendum while he is a Minister—I do not think that there will be one for a very long time, if ever—on Northern Ireland’s position within the union, I am sure that he will be out campaigning for the union, because nothing in the Belfast agreement stops that happening, and I was very disappointed that the shadow Secretary of State of my old party said that she would have to be neutral.

As many people have said, the proposed changes in the Bill have been made by the Government to try to improve the stability of Northern Ireland institutions and to improve transparency and accountability. It is rather ironic that we are talking about accountability when we have had discussions over the past few months on the protocol, where there has been no accountability. Along with all the unionist, pro-union parties in Northern Ireland, I am involved in the Court of Appeal action, which started again today—we had the first day. It is absolutely fascinating, and it is worth telling your Lordships what the Government have said today: they have gone back on their assertion that the Acts of Union are subject to implicit repeal, as they argued in court at the first hearing. Instead, they have suggested that Section 7A(3) merely suspends the Acts of Union for as long as the protocol exists. What an incredible suggestion. It suggests that the very legal contract that is the union—the Acts of Union—can be suspended as a requirement of the protocol. The implication is that, while the protocol remains, Northern Ireland’s position in the union is suspended. That is worth bringing to your Lordships’ attention tonight. I do not expect the Minister to respond on it, because he is clear that this about one area of legislation.

But it is also important that, as has been pointed out, the New Decade, New Approach agreement of January 2020 has, first, never actually been voted on or even debated in the Assembly. However, it is there and it is the agreement that we are working to—but this is only one aspect of it. I join with other noble Lords who have said that they want to know when the rest of it—the bits that actually make a huge difference—will be brought in. Some of the parties have been pushing particular aspects of it. It is very important that the Government do not look at one area alone but at the whole thing. The question of internal trade between Great Britain and Northern Ireland in particular is absolutely crucial. We have to get that legislation very quickly.

The noble Lord, Lord Empey, said that this was a “sticking plaster”. I am afraid that, in my view, the Bill is just a further distortion of democracy in Northern Ireland. Ministers will now be able to stay in office for up to a year after the Executive collapse or are not reformed, while no new election needs to be called in that time. As he has said, not a single Lord or Member of Parliament would allow that to happen in any other part of the United Kingdom, so let us not pretend that we have a real, genuine democracy in Northern Ireland: it makes old-style direct rule look almost more democratic.

The Bill has a huge flaw because, if a particular party removes its Ministers, the Executive will then become lopsided and unsustainable as they fail to cover both communities. Remember: everything in the Belfast/Good Friday agreement was about balance. It also reminds us of the nearly unsayable truth that the Belfast agreement’s reconstruction of Stormont is all about keeping republicans with the tent. It was Sinn Féin that pulled out for three years in 2017, leaving the Secretary of State in charge. That involved a new policy of punishing the citizens of Northern Ireland by refusing to make any changes or necessary reforms, thus requiring Westminster to legislate every six months to at least ensure the money supply. Will the Government give a commitment that, if this should ever happen again and the Executive were to collapse, this would not happen again—even if it does offend the Dublin Government?

Extending the purgatory just underscores the instability of the unworkable—in my view—system in Northern Ireland. It really is time to ask why this system is lurching from one crisis to another. We all know the answer, even if we do not want to admit it. It is very simple: Sinn Féin has a vested interest in instability. Why would it not? It does not want Northern Ireland to work. It does not want Northern Ireland to be successful. So we have the folly of a system that permits a Government only if a party that does not want Northern Ireland to work is at its heart—otherwise, there can be no Government. In my view, mandatory coalition does not work, cannot work and will not work. It is a recipe for perpetual, politically inspired instability.

Turning to the petition of concern, it was a safeguard to ensure that no one community could lord it over the other. The compulsory power-sharing arrangement that we have at Stormont could not operate without it, given that the previous majoritarian system has been deemed improper and inappropriate for Northern Ireland, unless the Government decide that it is useful, which is what they did with the protocol and the consent principle. So the petition has been used by both unionist and nationalist parties in legislation on the Floor of the Northern Ireland Assembly and, of course, it effectively stymies the Executive bringing forward reforms in many areas, since there is no advance cross-community agreement.

The case in February 2016, when the Assembly voted to remove the exception in fair employment law in relation to appointing schoolteachers, is a unique exemption from anti-discrimination law, applicable nowhere else in Europe—including no longer in the Republic of Ireland. The amendment, supported by the unionist and Alliance parties, passed, but a petition of concern was immediately invoked by the SDLP and Sinn Féin, and the reform was blocked. So let us not think, again as has been said earlier, that it is only one side that does petitions of concern.

However, concerns over the use of the petition of concern mask the reality that the Assembly can never legislate for reform. As a result, that task is almost exclusively exported to this Parliament. I instance past examples: welfare reform, abortion and gay marriage—in fact, all the gay reforms since initial decriminalisation in 1982 have come from here. Irish language and legacy legislation will be with us over the next year and inevitably many more will depend on Westminster finding the time to do what Stormont cannot or will not.

No matter the changes in this Bill, the basic difficulty remains: the two communities have different interests and often different ways of looking at things. A Bill of Rights is one such issue. It is worth reminding noble Lords that the Good Friday/Belfast agreement did not promise a Bill of Rights, and certainly not an all-singing, all-dancing one, as so many nationalists still demand. The agreement’s terms were met when proposals from the Northern Ireland Human Rights Commission were forwarded in 2008 to Shaun Woodward, the then Secretary of State. They suggested 80 new statutory rights; he found that they were inoperable and inappropriate and had no cross-community support. The proposal duly fell and will not be revived via the Belfast agreement, no matter how many investigations are held in the Assembly.

So it is time for clarity and honesty. Your Lordships’ House is the only assembly where Northern Ireland reforms are debated and perhaps amended. The other place is where the Government bring in their ready-cooked Northern Ireland Bills to Parliament, once they have decided what needs to be made law. I will just say briefly, on the case of legacy, which we are all going to have to talk about and discuss soon, and the Northern Ireland Office’s July Command Paper, with its proposed statute of limitations—which is actually an end to the whole Troubles criminal investigations—that this is the final capping of a process in train for 25 years. We have had more than a dozen partial amnesties since the 1998 Good Friday agreement, starting with the early release of prisoners, those guilty of the grossest abuses of human rights. In the terrible case of Patsy Gillespie, which the noble Lord, Lord Hain, mentioned, if the person had been got for that at the time, probably now they would be out on a royal pardon or some other way in which those guilty of the grossest abuse of human rights—murder—have been let off.

Those many parts of amnesty have been advocated, proposed and agreed by the Irish and British Governments in the past, so I find it a little surprising that the Irish Government are getting so angry about this when, in the past, they have gone along with it and asked for it. We will have to discuss this legacy Bill at some stage, but I hope that people will look at the past and the history of it before they make their decision.

Finally, I hope that nobody in your Lordships’ House will believe that the central problem of what is happening in Northern Ireland legislation, Stormont and the Assembly is resolved by this legislation. This House remains the legislature for Northern Ireland; that is the reality. Maybe it is time to recognise that those of us who were integrationists all those years ago may have had a point.